

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

TINA NEWELL

PLAINTIFF

V.

CIVIL ACTION NO. 1:09CV18-LTS-RHW

MUTUAL SAVINGS FIRE INSURANCE COMPANY

DEFENDANT

ORDER

The United States Magistrate Judge entered an [3] Order to Show Cause on July 10, 2009, relating to Plaintiff's failure to timely serve process in accordance with Fed. R. Civ. P. 4. Plaintiff's counsel has [5] responded.

Plaintiff's [1] Complaint was filed on January 7, 2009. The docket indicates that [2] summons was issued on February 4.

Plaintiff's arguments are not new to this Court, for he has offered virtually the identical excuses in other cases. However, the Court sees no reason to reach a different conclusion here than in those other actions. *See Nguyen, et al. v. XL Specialty Insurance Co.*, No. 1:09cv26; *Brady v. National Security Fire & Casualty Co.*, No. 1:09cv24; *Finklea v. National Security Fire & Casualty Co.*, No. 1:09cv22. Because of the specter of the statute of limitations and the relative lack of prejudice suffered by Defendant, dismissal at this date is too drastic to visit upon Plaintiff.

The Court finds that Plaintiff should be given an opportunity to effect service as provided by law unless a waiver is obtained pursuant to Fed. R. Civ. P. 4(d). At the same time, it should be understood that it is not for the Court to instruct Plaintiff's counsel on the intricacies of service of process, and it should be emphasized that failure to properly serve Defendant in accordance with the law and within the time allowed by this order shall result in dismissal.

Accordingly, **IT IS ORDERED:**

Plaintiff, within thirty (30) calendar days of the date of this order, shall serve the summons and Complaint upon Defendant and otherwise effect service of process in the manner provided by law, unless Defendant waives service of summons;

Failure to comply with this order shall result in the dismissal (without prejudice) of this cause of action.

SO ORDERED this the 23rd day of July, 2009.

s./ L. T. Senter, Jr.
L. T. SENTER, JR.
SENIOR JUDGE